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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/802,794	03/09/2001	Toshiyuki Fukushima	YAMAP0755US	8297

7590 05/10/2004

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EXAMINER	
BATTAGLIA, MICHAEL V	

ART UNIT	PAPER NUMBER
2652	

DATE MAILED: 05/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/802,794	Applicant(s) FUKUSHIMA ET AL.	
	Examiner Michael V Battaglia	Art Unit 2652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 March 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-77* is/are pending in the application.

4a) Of the above claim(s) *1-25,33-57 and 65-77* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *26-32 and 58-64* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *09 March 2001* is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

This action, dated April 16, 2004, is in response to Applicant's election, filed March 1, 2004. Claims 1-77 are pending.

Election/Restrictions

1. Applicant's election without traverse of Group IV in Paper No. 7 is acknowledged. Claims 1-25, 33-57, and 65-77 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected I-III and V, there being no allowable generic or linking claim.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

4. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 26-30, 58-60, and 62 are rejected under 35 U.S.C. 102(b) as being anticipated by Watanabe (US 5,598,395).

In regard to claim 26, Watanabe discloses an information recording and reproduction method for an information recording medium, wherein a temperature range indicating a range of apparatus temperatures of an information recording and reproduction apparatus includes a plurality of segmented temperature ranges (Fig. 2), the method comprising the steps of: (a) measuring an apparatus temperature of the information recording and reproduction apparatus (Fig. 3, element S1); (b) obtaining a recording and reproduction condition corresponding to a segmented temperature range which includes the measured apparatus temperature (Fig. 3, element S5); and (c) performing recording and reproduction based on the obtained recording and reproduction condition (Fig. 3, element S6).

In regard to claim 27, Watanabe discloses that the recording and reproduction condition defines an operation condition when an information recording and reproduction apparatus which can have the information recording medium mounted thereon performs data recording and reproduction (Fig. 2).

In regard to claim 28, Watanabe discloses that the step (b) includes the step of acquiring the recording and reproduction condition by adjustment processing (Fig. 3, element S5). The step is interpreted as including adjustment processing because the step is used to adjust laser power.

In regard to claim 29, Watanabe discloses that the method according to claim 28 further comprises the step of: (d) recording the recording and reproduction condition on the information recording medium (Col. 5, lines 32-36).

In regard to claim 30, Watanabe discloses that the information recording medium includes a drive information area having drive information including the recording and reproduction condition recorded therein, and, the step (b) includes the step of reading the recording and reproduction condition recorded in the drive information area (Col. 5, lines 32-36).

In regard to claim 58, Watanabe discloses an information recording and reproduction apparatus for an information recording medium, wherein a temperature range indicating a range of apparatus temperatures of the information recording and reproduction apparatus includes a plurality of segmented temperature ranges (Fig. 2), the apparatus comprising: a temperature measuring section for measuring an apparatus temperature of the information recording and reproduction apparatus (Fig. 1, element 14); an adjustment information processing section for obtaining a recording and reproduction condition corresponding to a segmented temperature range which includes the measured apparatus temperature (Fig. 1, element 4 and Col. 5, lines 19-24); and a recording and reproduction control section for performing recording and reproduction based on the obtained recording and reproduction condition (Fig. 1, element 12).

In regard to claim 59, Watanabe discloses that the recording and reproduction condition defines an operation condition when an information recording and reproduction apparatus performs data recording and reproduction (Fig. 2).

In regard to claim 60, Watanabe discloses that the adjustment information processing section acquires the recording and reproduction condition by adjustment processing (Col. 5, lines 19-24). Adjusting the light power is interpreted as adjustment processing.

In regard to claim 62, Watanabe discloses that the information recording medium includes a drive information area having drive information including the recording and reproduction condition recorded therein, and, the adjustment information processing section reads the recording and reproduction condition recorded in the drive information area (Col. 5, lines 32-36).

6. Claims 26-32 and 58-64 are rejected under 35 U.S.C. 102(e) as being anticipated by Akagi et al (hereafter Akagi) (US 6,434,096).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

In regard to claim 26, Akagi discloses an information recording and reproduction method for an information recording medium, wherein a temperature range indicating a range of apparatus temperatures of an information recording and reproduction apparatus includes a plurality of segmented temperature ranges, the method comprising the steps of: (a) measuring an apparatus temperature of the information recording and reproduction apparatus (Fig. 40, element S911); (b) obtaining a recording and reproduction condition corresponding to a segmented temperature range which includes the measured apparatus temperature (Fig. 40, element S908-S912 and Col. 52, lines 38-49); and (c) performing recording and reproduction based on the obtained recording and reproduction condition (Col. 51, lines 28-36). Recording and reproduction are carried out in ordinary mode using the obtained recording and reproduction condition. The segmented temperature range which includes the measured apparatus temperature and to which the obtained

recording and reproduction condition corresponds is the range of temperatures that would produce a "YES" in S907 of Fig. 40 (Col. 52, lines 33-35). It is noted that the predetermined temperature difference range for each of the plural detected apparatus temperatures is interpreted as a plurality of segmented temperature ranges.

In regard to claim 27, Akagi discloses that the recording and reproduction condition defines an operation condition when an information recording and reproduction apparatus which can have the information recording medium mounted thereon performs data recording and reproduction (Col. 52, lines 43-44).

In regard to claim 28, Akagi discloses that the step (b) includes the step of acquiring the recording and reproduction condition by adjustment processing (Fig. 40, element S909).

In regard to claim 29, Akagi discloses that the method according to claim 28, further comprising the step of: (d) recording the recording and reproduction condition on the information recording medium (Fig. 40, element S912).

In regard to claim 30, Akagi discloses that the information recording medium includes a drive information area having drive information including the recording and reproduction condition recorded therein, and, the step (b) includes the step of reading the recording and reproduction condition recorded in the drive information area (Fig. 40, element S908).

In regard to claim 31, Akagi discloses that the drive information includes version information which indicates a condition at which the recording and reproduction condition is acquired, and the method further includes the step of: (e) determining whether the recording and reproduction condition is re-usable or needs to be updated, based on the version information (Fig. 40, elements S904-906). The apparatus number that is capable of uniquely specifying the

apparatus, such as the manufacturer name, model number, production number, and the like is interpreted as version information.

In regard to claim 32, Akagi discloses that the version information includes history information concerning firmware for an information recording and reproduction apparatus (Col. 51, lines 42-47). Firmware is interpreted as a program that is implemented using hardware. The version information includes history information because it provides information specifying the last information recording and reproduction apparatus to record/reproduce on the information recording medium. The history information concerns firmware for the previous information recording and reproduction apparatus because the model number of the previous apparatus is given and each model will have their firmware. The history information concerns firmware for the current information recording and reproduction apparatus because the firmware program executed decides whether correction modes needs to be executed based on the history information (Fig. 40, elements S904-S905).

In regard to claim 58, Akagi discloses an information recording and reproduction apparatus for an information recording medium, wherein a temperature range indicating a range of apparatus temperatures of the information recording and reproduction apparatus includes a plurality of segmented temperature ranges, the apparatus comprising: a temperature measuring section for measuring an apparatus temperature of the information recording and reproduction apparatus (Fig. 39, element 324); an adjustment information processing section for obtaining a recording and reproduction condition corresponding to a segmented temperature range which includes the measured apparatus temperature (Fig. 39, elements that carry out S908-S912 of Fig. 40); and a recording and reproduction control section for performing recording and reproduction based on the obtained recording and reproduction condition (Col. 51, lines 28-36). Recording and

reproduction are carried out in ordinary mode using the obtained recording and reproduction condition. The segmented temperature range which includes the measured apparatus temperature and to which the obtained recording and reproduction condition corresponds is the range of temperatures that would produce a "YES" in S907 of Fig. 40 (Col. 52, lines 33-35). It is noted that the predetermined temperature difference range for each of the plural detected apparatus temperatures is interpreted as a plurality of segmented temperature ranges.

In regard to claim 59, Akagi discloses that the recording and reproduction condition defines an operation condition when an information recording and reproduction apparatus performs data recording and reproduction (Col. 52, lines 43-44).

In regard to claim 60, Akagi discloses that the adjustment information processing section acquires the recording and reproduction condition by adjustment processing (Fig. 40, element S909).

In regard to claim 61, Akagi discloses that the adjustment information processing section records the recording and reproduction condition on the information recording medium (Fig. 40, element S912).

In regard to claim 62, Akagi discloses that the information recording medium includes a drive information area having drive information including the recording and reproduction condition recorded therein, and, the adjustment information processing section reads the recording and reproduction condition recorded in the drive information area (Fig. 39, element S908).

In regard to claim 63, Akagi discloses that the drive information includes version information which indicates a condition at which the recording and reproduction condition is acquired (Col. 51, lines 42-47), and the adjustment information processing section determines

whether the recording and reproduction condition is re-usable or needs to be updated, based on the version information (Col. 52, lines 23-32). The apparatus number that is capable of uniquely specifying the apparatus, such as the manufacturer name, model number, production number, and the like is interpreted as version information.

In regard to claim 64, Akagi discloses that the version information includes history information concerning firmware for the information recording and reproduction apparatus (Col. 51, lines 42-47). Firmware is interpreted as a program that is implemented using hardware. The version information includes history information because it provides information specifying the last information recording and reproduction apparatus to record/reproduce on the information recording medium. The history information concerns firmware for the previous information recording and reproduction apparatus because the model number of the previous apparatus is given and each model will have their firmware. The history information concerns firmware for the current information recording and reproduction apparatus because the firmware program executed decides whether correction modes needs to be executed based on the history information (Fig. 40, elements S904-S905).

Citation of Relevant Prior Art

7. Kaneda et al (US 6,404,707) discloses a learning process that stores recording and reproducing conditions in a table, selects the condition by selecting the temperature range in which the detected temperature falls, and stores condition corresponding to disc barcode information (Fig. 8). Furukawa et al (US 6,411,576) discloses use of a detected temperature to select a reference voltage condition and recording and reproduction is carried out using the condition (Fig. 2).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael V Battaglia whose telephone number is (703) 305-4534. The examiner can normally be reached on 5-4/9 Plan with 1st Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa T Nguyen can be reached on (703) 305-9687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael Battaglia

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W. R. YOUNG
PRIMARY EXAMINER